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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,386	09/26/2003	Todd McClory Gilmour		2385

38400 7590 04/15/2005

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EXAMINER

WONG, STEVEN B

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/605,386	Applicant(s) GILMOUR, TODD MCCLORY	
	Examiner Steven Wong	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Blosser (5,356,146).

Blosser discloses a golf tee comprising colored sections on the shaft for indicating the teed height of the golf tee.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (5,890,976).

Anderson discloses a golf tee having numbers and lines on the shank for indicating the teed height of the golf tee.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Strong (5,672,122), Kirikos (3,408,079), Antonious (3,203,700) or Cabot (3,114,557). These references each teach a golf tee having projections or recesses on the shaft for indicating the teed height of the golf tee.

Response to Arguments

5. Applicant's arguments filed December 28, 2004 have been fully considered but are not deemed to be persuasive. The applicant argues that Blosser provides eleven stripes whereas the instant invention provides only three stripes that provide for easier discerning of the tee height. This is not persuasive as the instant claims fail to limit the claimed invention to only three stripes. Claim 1 sets forth "lines, numbers, letter, other symbols..." without limiting the particular number of the indicia. The applicant should also note that limiting the particular

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number of lines on the golf tee to only three would be considered to be obvious given the teachings of Blosser. The Figures of Blosser are merely intended as an example of the invention and nothing in the specification of Blosser would lead one of ordinary skill in the art to believe that the golf tee would be unable to function with fewer lines.

Regarding the reference to Anderson, the applicant argues that the golf tee of Anderson requires the use of a tee cylinder that a golfer must insert the golf tee into for each use. However, this is not persuasive as Anderson discloses that the tee cylinder may be press-fit, cat onto or shrink-wrapped onto the shaft portion of the golf tee. Anderson also states that the cover may be applied as a paint, varnish, stain or urethane material. Thus, it is clear that Anderson, in fact, teaches for his tee cylinder to be permanently applied to the tee shaft and not be removable as applicant asserts.

Regarding the references to Cabot, Antonious, Kirikos and Strong, the applicant argues that these references all include a collar or disk in combination with the golf tee in order to set the depth of the tee. The applicant contends that his device does not require the use of a collar or disk. However, this is not persuasive as the applicant does not state his claim in "closed" claim language such as "consisting of" and thus, the claim may permit the addition of structure such as the collar or disk of the prior art. Further, it should be noted that the devices of Cabot, Antonious, Kirikos and Strong are seen as being functional without the use of the collar or disk and would therefore render a claimed golf tee consisting of only the tee itself without the disk or collar as obvious.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

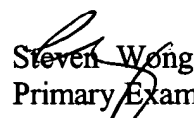
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Steven Wong
Primary Examiner
Art Unit 3711

SBW
April 11, 2005